IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5131 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

LAXMIBEN MITTHALBHAI PATEL THRO POA HOLDER A J PATEL

Versus

STATE OF GUJARAT

Appearance:

MR ISHVERLAL J NAIK for Petitioner

MR MB GANDHI for Respondent Nos. 2 & 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 10/07/2000

ORAL JUDGEMENT

Leave to delete respondent No. 1.

2. Rule. Mr MB Gandhi waives service of Rule for respondent Nos. 2 and 3.

3. The petitioner was holding land near Vapi. The

GIDC acquired the land belonging to the petitioner and other lands in that area for establishing an industrial estate. At that time, the GIDC also evolved a policy to allot commercial plots at concessional rates to such land losers. The petitioner was also accordingly allotted plot No. C-5/111 at the concessional rate of Rs.470/per sq.mtr. However, it turned out that the land so allotted to the petitioner did not belong to the GIDC but the land belonged to the State Government. The GIDC was anticipating that the land would be transferred by the Government to the GIDC very soon and in that anticipation the land was allotted to the petitioner. However, since the land was not transferred to the GIDC for a considerable time, the petitioner was naturally not willing to accept the above numbered plot. The petitioner, therefore, filed the present petition for a writ of mandamus to direct the GIDC to allot to the petitioner another commercial plot in the GIDC area at Vapi. The petitioner also challenged the advertisement issued by the GIDC for auctioning some commercial plots in that area.

4. In response to the notice issued by this Court, affidavit in reply has been filed by Mr R.H. Trivedi, Regional Manager, GIDC, Vapi. An attempt is made in the said affidavit to explain as to why the plot could not be transferred to the petitioner and it is stated that as and when the Government will transfer the land in question to the GIDC, the GIDC shall transfer the plot admeasuring 468 sq.mtrs. to the petitioner. It is further stated in the reply affidavit that in the alternative, there are some 10 to 20 plots which are put to auction and that if the petitioner is not prepared to wait till then, the respondents are prepared to allot any available plot to the petitioner so that she can get the plot and can start the commercial activities. It is further added that in that case the original allotment concessional rate would not be available to the petitioner, but the present running price would be applicable.

5. At the hearing of the petition, Mr IJ Naik, learned counsel for the petitioner has submitted that the petitioner has been offered plot No. CM/62 and that the petitioner is prepared to accept the said plot, but the petitioner is prepared to pay the price of the said plot at the rate at which the petitioner was offered plot No. C-5/111 on 3.2.1994 (Annexure "B" Pg.31).

6. In view of the statement made in para 3 of the reply affidavit, Mr MB Gandhi, learned counsel for the

respondents is not in a position to agree to the said suggestion, but at the same time, the learned counsel is not in a position to contend that the delay in allotment of plot over the last 6 years could be attributable to the petitioner. Mr Gandhi, however, does not dispute the statement being made by the learned counsel for the petitioner that another alternative plot offered to the petitioner bears No. CM-62.

7. In view of the facts and circumstances of the case and particularly the uncontroverted position that the delay in allotment of plot No. C-5/111 is not attributable to the petitioner, it would be just and proper to direct the respondents to allot another plot to the petitioner at the rate which was fixed in the allotment letter dated 3.2.1994 (Annexure "B" Pg. 31).

7. In view of the above discussion, the respondents are directed to allot plot No. CM-62 for a price at the rate which was mentioned in the allotment letter dated 3.2.1994 (Annexure "B" Pg.31) i.e. at Rs.470/- per sq.mtr. The allotment letter shall be issued within two weeks from today and the possession thereof shall be handed over by the respondents to the petitioner within two weeks from the date on which the petitioner makes full payment for the aforesaid plot at the aforesaid rate.

8. Rule is made absolute in terms of the aforesaid direction. The ad-interim relief granted earlier is not required to be continued in view of the aforesaid order.

July 10, 2000 (M.S. Shah, J.)
sundar/-